

REMARKS

Claims 1-28 are the pending claims. Claim 1 is written in independent form. By this Amendment, claims 1, 5, 19-21 and 24 are amended. No new matter is added.

I. Claim Rejection Under 35 U.S.C. §112:

The Examiner rejects claims 1 and 5 under 35 U.S.C. §112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Specifically, claim 1 is rejected due to lack of antecedent basis. Claim 1 is amended to correct the antecedent basis issue.

Claim 5 is rejected for the recitation of an incomplete phrase in the claim. Claim 5 is amended to remove the phrase.

Claim 5 also stands rejected for recitation of “at least one of capacitive switches, and as optical sensor elements.” Applicant understands that this rejection is meant to have been applied to claim 24. Claim 24 is amended address the rejection.

As the pending claims are amended to address the rejections, Applicant respectfully submits that the amended claims more particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming the rejections.

II. Claim Rejections on Prior Art Grounds

Claims 1, 7-18, 20, 22 and 25-28 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,556,848 to Leyden et al. (Leyden). The rejection is respectfully traversed.

Leyden fails to disclose, a retaining component for securing an item from theft, the retaining component comprising...at least one second retaining area

for fastening the retaining component to the item, the second retaining area being designed to be more easily deformable than the first retaining area, wherein the retaining component...includes an elastically deformable material, the double-sided adhesive tape being ductile, as recited in independent claim 1.

Leyden discloses a security apparatus for monitoring an article to prevent unauthorized removal of the article. In Leyden, the security apparatus 60 includes a housing 68 that contains all of the electrical components of the apparatus 60. The housing 68 is made of a rigid material, such as a hard plastic (col. 6, lines 8-11). The apparatus 60 also includes a body 62 made of a material that can be configured into a plurality of shapes and maintain itself in the plurality of different shapes. Once the material is conformed to a particular article, the body will not spring back to its undeformed shape. As a result, a positive bond between the body 62 and the article 88 being protected can be maintained without fear of peeling off by reason of its own reconfiguration (col. 2, line 61-col. 3, line 4; col. 6, lines 46).

Thus, in contrast to the claimed retaining component that includes an “elastically deformable material,” the body 62 is not elastic. Rather, as clearly described in Leyden, the body 62 “once conformed...will not spring back to its undeformed state.”

Further, Leyden actually teaches away from the use of the claimed “elastically deformable material.” For example, Leyden recites the use of a thermal setting rubber that will retain its shape, rather than “a conventional plastic flexible material that, while reconfigurable, tends to reassume its undeformed state” (col. 6, lines 35-43).

Regarding claim 7, it is alleged in the Office Action that Leyden discloses “the first retaining area and the second retaining area include the same material.” However, Leyden recites that the alleged first retaining area (housing 68) is made of a hard plastic to house the electrical components of the

security apparatus 60. The alleged second retaining area of Leyden (body 62) is a thermal setting rubber. Thus, in contrast to the subject matter of claim 7, the first and second retaining areas of Leyden do not include the same material.

As Leyden fails to disclose or suggest each and every feature of the rejected claims, withdrawal of the rejection is respectfully requested.

Claims 2, 3, 5 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Leyden in view of US Patent 6,268,795 to Hadfield. The rejection is respectfully traversed.

Claims 2, 3, 5 and 23 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein.

Moreover, Hadfield relates to a security tag for use in preventing theft of an article and does not overcome the deficiencies of Leyden. Therefore, the combination of references fails to disclose or suggest all of the features of the rejected claims. As the combination of references fails to render the rejected claims obvious, withdrawal of the rejection is respectfully requested.

Claims 4 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Leyden in view of US Patent 6,436,527 to Zimmerman. The rejection is respectfully traversed.

Claims 4 and 6 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein.

Moreover, Zimmerman relates to a self-adhesive and re-detachable stencilling tape for use in painting or varnishing. Thus, Zimmerman fails to overcome the deficiencies of Leyden. As the combination of references fails to

render the rejected claims obvious, withdrawal of the rejection is respectfully requested.

Claims 19 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Leyden in view of US Patent 5,964,353 to Hamlin. The rejection is respectfully traversed.

Claims 19 and 21 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein.

Moreover, Hamlin relates to an energy absorbing carrier tape. Thus, Hamlin fails to overcome the deficiencies of Leyden. As the combination of references fails to render the rejected claims obvious, withdrawal of the rejection is respectfully requested.

Claims 24 is rejected under 35 U.S.C. §103(a) as being unpatentable over Leyden in view of US Patent 5,433,391 to Jagger. The rejection is respectfully traversed.

Claim 24 is allowable for its dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein.

Moreover, Jagger relates to a cereal milling machine that grinds stock stored in a hopper using grinding rolls. Thus, Zimmerman fails to overcome the deficiencies of Leyden. Moreover, one of ordinary skill in the art would not seek to modify the security apparatus of Leyden with the teachings of a cereal milling machine. As the combination of references fails to render the rejected claims obvious, withdrawal of the rejection is respectfully requested.

CONCLUSION

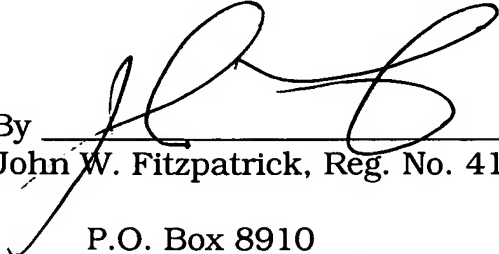
In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick, 41,018, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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